

MONTANA LEGISLATIVE HISTORY

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Chapter 386 19 91

Bill H 173 S _____ Original bill & history C

H. Committee on Judiciary

Hearing Date(s) Jan 22 ☒ C

Jan 24 ☒ C

_____ C

_____ C

Date Out Jan 24 ☒ C

S. Committee on Judiciary

Hearing Date(s) Mar 21 ☒ C

Mar 23 ☒ C

_____ C

_____ C

Mar 23 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1/14 INTRODUCED
 1/14 REFERRED TO STATE ADMINISTRATION
 1/15 FIRST READING
 1/15 FISCAL NOTE REQUESTED
 1/19 FISCAL NOTE RECEIVED
 1/21 FISCAL NOTE PRINTED
 1/30 HEARING
 2/11 TABLED IN COMMITTEE

HB 171 INTRODUCED BY BENEDICT, ET AL.

DALY DITCH WATER PROJECT REPEAL

BY REQUEST OF DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

1/14	INTRODUCED		
1/14	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
1/15	FIRST READING		
1/21	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED		
1/22	PLACED ON CONSENT CALENDAR		
1/24	3RD READING PASSED	97	0
	TRANSMITTED TO SENATE		
1/25	FIRST READING		
1/25	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/06	HEARING		
2/07	COMMITTEE REPORT—BILL CONCURRED		
2/09	2ND READING CONCURRED	48	0
2/11	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
2/23	SIGNED BY SPEAKER		
2/25	SIGNED BY PRESIDENT		
2/25	TRANSMITTED TO GOVERNOR		
2/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 61		

EFFECTIVE DATE: 2/27/91

HB 172 INTRODUCED BY R. DEBRUYCKER, ET AL.

REQUIRE LANDOWNER PERMISSION BEFORE
HUNTING ON PRIVATE PROPERTY

1/14 INTRODUCED
 1/14 REFERRED TO FISH & GAME
 1/15 FIRST READING
 1/24 HEARING
 1/25 TABLED IN COMMITTEE

HB 173 INTRODUCED BY PAVLOVICH, ET AL.

CLARIFY CERTAIN PROCEDURES OF JUDICIAL STANDARDS COMMISSION

1/14	INTRODUCED		
1/14	REFERRED TO JUDICIARY		
1/15	FIRST READING		
1/22	HEARING		
1/24	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/31	2ND READING PASSED	97	1
2/02	3RD READING PASSED	93	1
	TRANSMITTED TO SENATE		
2/04	FIRST READING		
2/04	REFERRED TO JUDICIARY		
3/21	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	49	0
3/28	3RD READING CONCURRED	48	0

4/03 RETURNED TO HOUSE
 4/03 SIGNED BY SPEAKER
 4/03 SIGNED BY PRESIDENT
 4/04 TRANSMITTED TO GOVERNOR
 4/08 SIGNED BY GOVERNOR
 CHAPTER NUMBER 386

EFFECTIVE DATE: 7/01/91

HB 174 INTRODUCED BY GRADY, ET AL.

EXEMPT BIENNIAL SEASONAL RULES ADOPTED BY FISH,
 WILDLIFE, AND PARKS ADOPTED BY MAPA
 BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, & PARKS

1/14 INTRODUCED
 1/14 REFERRED TO FISH & GAME
 1/15 FIRST READING
 1/15 FISCAL NOTE REQUESTED
 1/18 FISCAL NOTE RECEIVED
 1/19 FISCAL NOTE PRINTED
 1/22 HEARING
 1/23 COMMITTEE REPORT—BILL PASSED
 1/26 2ND READING PASSED
 1/30 3RD READING PASSED

83 7
 91 9

TRANSMITTED TO SENATE
 1/31 FIRST READING
 1/31 REFERRED TO FISH & GAME
 3/21 HEARING
 3/22 COMMITTEE REPORT—BILL CONCURRED
 3/23 2ND READING CONCURRED
 3/25 3RD READING CONCURRED

47 0
 47 1

RETURNED TO HOUSE
 4/01 SIGNED BY SPEAKER
 4/01 SIGNED BY PRESIDENT
 4/01 TRANSMITTED TO GOVERNOR
 4/04 SIGNED BY GOVERNOR
 CHAPTER NUMBER 340

EFFECTIVE DATE: 4/04/91

HB 175 INTRODUCED BY D. BROWN

REQUIRE ELEMENTARY DISTRICTS TO PROVIDE
 OR MAKE AVAILABLE A KINDERGARTEN

1/14 INTRODUCED
 1/14 REFERRED TO EDUCATION & CULTURAL RESOURCES
 1/15 FIRST READING
 1/15 FISCAL NOTE REQUESTED
 1/21 FISCAL NOTE PRINTED
 1/21 FISCAL NOTE RECEIVED
 1/23 HEARING
 1/28 COMMITTEE REPORT—BILL PASSED
 1/29 2ND READING PASSED
 1/29 TAKEN FROM ENGROSSING AND
 REREFERRED TO APPROPRIATIONS
 1/30 TAKEN FROM COMMITTEE AND PLACED ON 3RD READING
 1/31 3RD READING PASSED

59 41
 54 41

TRANSMITTED TO SENATE
 2/01 FIRST READING
 2/01 REFERRED TO EDUCATION & CULTURAL RESOURCES
 2/06 HEARING
 2/07 COMMITTEE REPORT—BILL CONCURRED
 2/09 2ND READING CONCURRED
 2/11 3RD READING CONCURRED

27 20
 28 21

RETURNED TO HOUSE
 2/23 SIGNED BY SPEAKER
 2/25 SIGNED BY PRESIDENT

REP. MESSMORE asked REP. BROOKE if she believes the \$5000 funding is adequate for board meetings and does this board require a staff member? REP. BROOKE said the bill proposes we are to be put on the list on Cultural and Aesthetic Grant Proposals. I don't think it would need to have a fiscal note. I have not been told that there would be a staff member required for the board. The board covers their own expenses. REP. MESSMORE asked what department would this board respond to? REP. BROOKE said the board would be under the Department of Commerce.

REP. JOHNSON asked Ms. Atkinson during the time of the construction of the bill, was the funding consideration taken under advisement? If there is no funding, even the passage of the bill doesn't get done what you want it to. Ms. Atkinson stated they were looking for funds for the initial start-up. We don't envision the board will meet regularly. We also have a provision in the bill that allows for the board to seek funds or accept gifts. REP. JOHNSON stated there are a number of places in the bill that require funding. If the committee decided to take it out of the funding sources and put it here, would you be in agreement with that. Ms. Atkinson said she would have to speak with the other tribes.

REP. RICE asked REP. BROOKE if other states setting up their statutes stating it is a felony to let out information of where a burial site is located? David Schwab said yes other states charge these people with a felony. There is a group of people who do this constantly and that is why the offense goes in terms of the violation of the crime.

Closing by Sponsor:

REP. BROOKE stated she was honored to be the sponsor of this bill. She would urge you to take a close look at this bill. Rep. Brooke said she would be able to clarify the amendments when the bill is considered in Executive Session.

HEARING ON HB #173

REVISE PROCEDURES OF JUDICIAL STANDARDS COMMISSION

Presentation and Opening Statement by Sponsor:

REP. PAVLOVICH, HOUSE DISTRICT 70, stated; "This is basically a clean up bill and I will let Judge Sullivan give you the specifics as to what the bill says."

Proponents' Testimony:

Judge Sullivan, Butte, stated he had been elected by the other judges to come today and explain this bill we are supporting.

this bill deals with the commission having complaints against judges. We hope this will resolve some of these conflicts and clean up the chapter on Judicial Standards so in the future our committee won't have these same problems.

There are four statutes in our dilemma in Title 3. Confidential proceedings - rules for commission, states that all papers filed with proceedings before the commission are confidential. The filing of papers with testimony given before the commission is privileged communication. Any hearing conducted before the Supreme Court relative to a recommendation by the commission together with all papers pertaining to such recommendation shall be accessible to the public. The bill does not deny that.

Another statute involves publication. This entitles Judges a waiver of confidentiality. The commission must allow public access to all papers filed for testimony and hearing before the commission in a given case, if the Judge against the complaint has been filed, waives his right for confidentiality and asks for the proceedings be heard in public. There is confidentiality before the commission at the commission level unless the Judge wishes to waive. In the case we had at the commission hearing, we asked the Judge if he wanted to waive. He said he didn't want to waive and the commission gave him his right of privacy and excluded the public from this hearing. Here is the statute that I suggest is in conflict and should be repealed. This is a personal view.

If the commission finds good cause for a hearing, the commission must allow public access to all papers pertaining to the findings of good cause of charges against the Judge. If the Judge wanted to keep the hearing private until the outcome of the trial as one statute provides, this statute says we must make all the papers pertaining to the trial public knowledge.

Our next concern is in regards to 1106, investigation of Judicial Offices. Once we decide that there should be an investigation, either an extension, or removal, or retirement and make that declaration known to the Supreme Court, that is when suspension immediately takes effect. We didn't ask for suspension in our hearing. "I feel this is fair and it is unfair if the complaints are unfounded and the judge has been suspended."

Opponents' Testimony:

Steve Brown, stated the statutes you have before you have not been amended before this legislation. Up until 1980 there was no information about the Judicial Standards System. This led people to believe the Judges were acting in their own best interest. I do not believe there are any conflicts and the process works well. The statutes that were enacted, clearly protects the confidentiality of the judges who are wronged or accused. There is no requirement in these statutes, that the name or complaints about any judge

disposed to the public. It is the opposite. These statutes only require public disclosure after the commission has conducted their full investigation and then recommend disciplinary action to the Supreme Court. Only at that time, are proceedings open to the public. The waiver provision is to enable any individual to get a fair trial if they feel they are not getting a fair trial. The commission does have to give notice of their meetings.

I would urge you to strike section 5 from the bill. There is no need to repeal section 5 of the bill. The public has a right to be a these proceedings and if the Judge that has the complaint filed against him, want to waive his right he is entitled to do so in the Constitution.

Charles Walk, Executive Director, Montana Newspaper Association, gave written testimony opposing HB #173. EXHIBIT 11

Ray Foot, Editor, Montana Standard Newspaper, stated he strongly opposes this bill, particularly section 5. This would strip the public of the right to know about Judicial System hearings. I urge you to take a very close look at the pension provisions to assure that a class of employee is not created.

Mike Fuller, stated they strongly object to section 5.

C.B. Pearson, Executive Director of Common Cause, stated we oppose taking out section 5 of this bill and urge that you amend it. We think public disclosure is healthy. In addition, it has some safeguards for an individual to feel like they are being railroaded through.

Questions From Committee Members:

REP. MEASURE asked Mr. Steve Brown what his recommendation is as far as the bill. Do you approve of the rest of the bill, excluding section 5? Mr. Brown said he has no major objections with the rest of the bill.

REP. WHALEN asked Judge Sullivan what happens when the Commission initially receives a complaint and how is it decided to have a hearing? Judge Sullivan said when they are investigating a complaint, it is completely confidential. We, normally, would hire an investigator to check if the allegations made are valid. After he reports back, we then have a hearing to decide if we should pursue the matter further. This is where 1121-22 come in conflict.

REP. WHALEN clarified with Judge Sullivan that the procedure is to start with filing of the complaint, then the investigation by the committee, if warranted. After the investigation by the commission, there is a hearing to see if the allegations against the judge in question, are valid. Is everything confidential up to this point? Judge Sullivan said yes. REP. WHALEN asked if 1122 provides the Judicial Officer under investigation, to have

the investigatory part of the commissions actions, open to the public? Judge Sullivan said it would seem to be that way.

REP. TOOLE stated that this seems to be a matter of timing problems. Would it be agreeable to you if 1122 was amended to make it clear the waiver applies during a portion of the proceedings prior to the findings? Judge Sullivan said that would be fine.

Closing by Sponsor:

REP. PAVLOVICH stated he would ask the committee to look closely at the bill and consider the conflict of the statutes Judge Sullivan mentioned.

EXECUTIVE ACTION ON HB #159

Motion: REP. TOOLE MOVED HB 159 DO PASS.

Motion: REP. TOOLE moved to amend HB 159. EXHIBIT 12

Discussion:

REP. TOOLE stated the amendment define how the measure of damages would be determined.

Vote: Motion carried.

Motion: REP. RICE moved to amend HB 159.

REP. RICE stated the bill does not restrict the number of unsuccessful bidders that could bring suit against the person who got the contract. It should be restricted to the person who is really cheated out of a job, which would be the second place bidder. My amendment would be to change the language of line 13 to read "a person who submits the next lowest competitive bid".

Discussion:

REP. BROOKE asked REP. RICE what if the second lowest bidder does not have worker's comp? REP. RICE said he thought it was triggered by him not paying the worker's comp. So, I don't think that would become an issue.

REP. WHALEN asked REP. RICE if he thinks putting the term submits the next lowest "valid" bid would clarify that question? REP. RICE said yes, he would make that part of the amendment and his motion.

Vote: Motion carried.

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE

Jan. 22, 1991

NAME

PRESENT

ABSENT

EXCUSED

REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/	<i>yes</i>	
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/	<i>yes</i>	
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HB#173

EXHIBIT 11
DATE 1-22-91
HB 173

Testimony by Charles W. Walk, Executive Director, Montana Newspaper Association, on HB 173 before House Judiciary Committee, 1-22-91.

Mr. Chairman, members of the committee, for the record, I am Charles W. Walk, executive director of the Montana Newspaper Association, which represents all 11 daily newspapers and 64 weekly newspapers in Montana.

I rise today in opposition to House Bill 173.

To be specific, I rise in opposition to Section 5 of the bill, a section which would repeal - and thus eliminate - the entire public disclosure section of the existing code 3-1-1121.

At a time when we badly need all the public disclosure of public business we can currently have - particularly, I believe, in the area of our judicial system - this section of the proposed bill would effectively shut off the public's right to know in a critical area.

Adoption of this section of HB 173 would leave the public with section 3-1-1122 which means the public could gain access to the papers and testimony of a hearing before the Judicial Standards Commission only if the judge against whom the complaint has been filed waives his right to privacy. This does not seem to us to be adequate provision for public access, given the serious nature of the commission's business.

Existing code, on the other hand, specifically outlines the information available from the commission, including findings of good cause, the charges, and the proceedings, transcripts and recordings of commission hearings. This, we believe, is what open government is all about and where all government hearings and meetings should be.

Ex. 11

1-22-91

HB 159

I hope the committee will bear in mind that we are dealing at a time when I believe the public feels isolated from too much of the workings of its governmental system, including that of the judiciary. Repeal of any section of the code which would hinder the public's access to information in this area would only heighten that feeling of isolation, and, thereby, threaten the confidence of the public in the entire system.

No part of government - simply by its nature - should demand or expect less scrutiny by the public. But that is exactly what the repeal of 3-1-1121 would do. It would effectively close off critical information the public has every expectation of obtaining.

We urge the committee to defeat HB 173 as introduced or, at very least, to amend it by eliminating Section 5 of the bill, which would repeal 3-1-1121 of the existing code. Thank you.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. 173
DATE 1-22-91 SPONSOR(S) Rep. Parlorich
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Mike Cull</u> <u>Helen</u>	<u>Lea Enterprises</u>	<u>2m end</u>	
<u>Chuck Wall</u>	<u>MNA</u>	<u>Amend</u>	
<u>Rick Frost</u>	<u>Montana State</u>		<u>✓</u>
<u>K. Atkinson</u>	<u>SECRET</u>	<u>Support</u>	
<u>Steve Brown</u>	<u>Self</u>		<u>✓</u>
<u>SALLY JOHNSON</u>	<u>Institutions</u>		
<u>Rep. Carlson</u>	<u>AD #10 Guide</u>	<u>✓</u>	
<u>Maureen Sullivan</u>	<u>Self</u>	<u>✓</u>	
<u>Les Lynch</u>	<u>Self</u>	<u>✓</u>	
<u>CB Pearson</u>	<u>Common Cause / Montana</u>	<u>Amend</u>	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

CHAIRMAN STRIZICH said there are too many areas in the gray bill that need special attention and would like to appoint a sub-committee to work out the details and bring a better view of this bill to the committee. Rep. Brooke, Chair; Rep. Rice; Rep. Russell; Rep. Toole were appointed to the sub-committee.

EXECUTIVE ACTION ON HB #173

Motion: REP. TOOLE MOVED HB 173 DO PASS AS AMENDED.

Motion: REP. TOOLE moved to amend HB 173. (Refer to Standing Committee Report)

Discussion:

REP. TOOLE stated he is concerned about rights of any people under the government to have their retirement benefits removed for them. His amendment would strike section 4 entirely.

REP. RICE stated he doesn't feel the amendment says anything about the retirement benefits one way or the other. It is saying, we are not going to guarantee to the judges that they always get their retirement.

Vote: Motion carried.

Motion: REP. TOOLE moved to amend HB 173. EXHIBIT 2

Discussion:

REP. TOOLE said that his amendment deals with the clarification of disclosure. He stated that he asked Judge Sullivan if the committee could clarify the time of the disclosure of these proceedings, in the bill, would it be agreeable to him. Sullivan was looking for guidance from legislature and would be happy with that. The proceedings of the commission before the law, are all confidential until the time that the board makes a finding of good cause for further proceedings against the judge. At that point in time, under these very statutes, public disclosure is granted. These amendments will clarify the time of this statute.

Vote: Motion carried.

Motion: REP. TOOLE MOVED HB 173 DO PASS AS AMENDED.

Discussion:

John MacMaster clarified that the title will have to be amended accordingly and in the title on line 9, where it states "modifying public disclosure requirements", the bill with the last amendment does not modify much of anything. It clarifies public disclosure requirements. I would amend the title accordingly by changing "modifying" to "clarifying".

1.40
1-24-11
503

HOUSE STANDING COMMITTEE REPORT

January 24, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 173 (first reading copy -- white) do pass as amended.

Signed: [Signature]
Bill Strizich, Chairman

And, that such amendments read:

1. Title, lines 6 through 8.

Strike: "THAT" on line 6 through "MODIFYING" on line 8

2. Title, line 9.

Strike: "3-1-1105,"

Strike: "3-1-1111"

Insert: "3-1-1122"

3. Title, lines 9 and 10.

Strike: "REPEALING" on line 9 through "MCA;" on line 10

4. Page 1, lines 13 through 23.

Strike: section 1 of the bill in its entirety

Renumber: subsequent sections

5. Page 4, lines 2 through 15.

Strike: sections 4 and 5 of the bill in their entirety

Insert: "Section 3. Section 3-1-1122, MCA, is amended to read:

"3-1-1122. Judge's waiver of confidentiality -- hearing made public. The In addition to the public disclosure required under 3-1-1107, 3-1-1121, and 3-1-1123 through 3-1-1126, the commission must allow public access to all papers filed with and testimony and hearings before the commission or masters in a given case if the judge against whom a complaint has been filed waives his right of confidentiality and requests in writing that the proceedings be accessible to the public. Public disclosure of information required under 3-1-1107, 3-1-1121, and 3-1-1123 through 3-1-1126, is not contingent upon a waiver under this section."

Renumber: subsequent section

EXHIBIT 2
DATE 1-24-91
HB 173

Amendments to House Bill No. 173
First Reading Copy

Requested by Reps. Whalen, Rice, and Toole
For the Committee on the Judiciary

Prepared by John MacMaster
January 22, 1991

1. Title, lines 6 through 8.

Strike: "HEAT" on line 6 through "MODIFYING" on line 8

2. Title, line 9.

Strike: "3-1-1105,"

Strike: "3-1-1111"

Insert: "3-1-1122"

3. Title, lines 9 and 10.

Strike: "REPEALING" on line 9 through "MCA;" on line 10

4. Page 1, lines 13 through 23.

Strike: section 1 of the bill in its entirety

Renumber: subsequent sections

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Renumber: subsequent section

days. He commented that the whole purpose of the bill may be lost if it is extended out too far. Representative Lee replied they did, but his memory fails him on the details of the discussion. He said there are programs where sentencing is appropriate.

Chairman Pinsoneault stated the person being sentenced must sometimes be put on a waiting list for a treatment program. He asked if most treatment programs don't run for at least 30 days. Representative Lee said he could not answer, and suggested that Patricia Bradley, Montana Magistrates Association might have an answer. Ms. Bradley said it is her understanding that justice courts have no authority to sentence beyond one year. She stated that some extended jurisdiction was for DUI (60 days) and per se (10 days). Ms. Bradley further stated that a bill for six-month jurisdiction (carried by Representative Fagg), was defeated.

Chairman Pinsoneault asked if the bill addresses counseling or treatment, and what the maximum life of treatment is. Patricia Bradley replied it is normally a four-week course. She said disorderly conduct jurisdiction is only for ten days, and that there is no way to deal with rehabilitation for repeat offenders right now.

Senator Halligan suggested striking "three years" on line 13, and giving the court the ability to sentence for one year. He said the rest may have to be addressed in the next legislative session. He commented that three years is a red flag to him. Patricia Bradley replied that would be very helpful, as, to her knowledge, justice of the peace courts do not have jurisdiction over sex offenders. She stated that "where otherwise prohibited by law" was put in the bill because DUI sentences can't be deferred.

Closing by Sponsor:

Representative Lee said he had no objection to reducing the language to one year, and asked that the bill be kept alive.

HEARING ON HOUSE BILL 173

Presentation and Opening Statement by Sponsor:

Representative Bob Pavlovich, District 70, said the bill was requested by Judge Sullivan, Butte, who is ill and cannot be present for the hearing. He explained that it clears up language on Part 4 concerning judicial standards, and that he believed the attorneys on the Committee would find the bill to be in good shape.

Representative Pavlovich said the bill originally proposed to delete 3-1-1121, MCA, but was amended instead. He said Senator Stimatz would carry HB 173.

Proponents' Testimony:

Mike Voeller, Lee Enterprises, said he supported the Section 3 amendment. He told the Committee that Steve Brown, who wrote this legislation, disagreed with Judge Green, and that the amendment clarifies two opposing sections of law.

Opponents' Testimony:

There were no opponents of the bill.

Questions From Committee Members:

There were no questions from the Committee.

Closing by Sponsor:

Representative Pavlovich made no closing comments, but thanked the Committee for the hearing.

EXECUTIVE ACTION ON HOUSE BILL 847

Motion:

There was no motion on the bill.

Discussion:

Senator Grosfield asked if the intent were to allow games to be played at senior citizen centers, and said he didn't believe the bill allows poker unless there is a licensed gambling operator, (pages 6-7).

Valencia Lane reported that the bill was amended by Lois Menzies, so the section numbers have to be changed. She said 309 is coming out of the bill.

Senator Mazurek said 408 pertains to hours of play.

Senator Grosfield asked Representative Lee if the intent was to eliminate licensing fees for senior citizen centers or to allow poker. Representative Lee replied that senior citizen centers are exempt from application, licensing, permits, and tax, but all other gaming regulations apply. He said it was not his intent that they play poker.

Senator Towe referred to Section 2, page 7, lines 6-7, exempting senior citizen centers if they limit live card games to their facilities. Representative Lee replied he would have to ask the gaming people, and said he did not have the expertise to answer.

Senator Towe asked Representative Lee to state exactly what he did want. Representative Lee replied he wanted the bill to exempt

Motion/Vote: REP. TOOLE moved to amend HB 173 with the amendment stated by John MacMaster. Motion carried.

Motion/Vote: REP. TOOLE MOVED HB 173 DO PASS AS AMENDED. Motion carried.

EXECUTIVE ACTION ON HB #211

Motion/Vote: REP. GOULD MOVED HB 211 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #191

Motion/Vote: REP. MEASURE MOVED HB 191 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #221

Motion/Vote: REP. TOOLE MOVED HB 211 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB #197

Motion: REP. BOHARSKI MOVED HB 197 DO PASS.

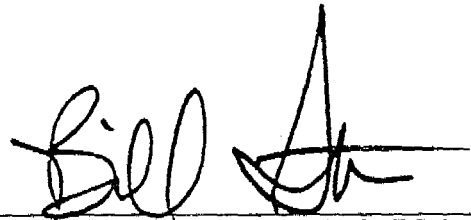
Motion/Vote: REP. BOHARSKI moved to amend HB 197. EXHIBIT 1 Motion carried.

Motion/Vote: REP. MEASURE moved to amend HB 197 with the amendment requested by Ms. Van Riper to drop the word "compensation" before benefits anywhere it appears in the bill. Motion carried.

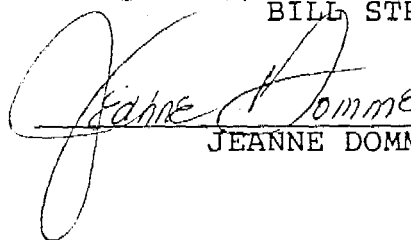
Motion/Vote: REP. RICE MOVED HB 197 DO PASS AS AMENDED. Motion carried.

ADJOURNMENT

Adjournment: 11 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

DATE 3-21-91

COMMITTEE ON Industrial

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Amendments, Discussion, and Votes:

There were no amendments.

Recommendation and Vote:

There was no recommendation or vote.

EXECUTIVE ACTION ON HOUSE BILL 839

Motion:

Discussion:

Senator Halligan said a lot of people are lost to treatment when there is only 10-day jurisdiction on DUI and 60-day jurisdiction on per se.

Senator Mazurek said Lewis and Clark County imposes a six month jail sentence, deferring all but 10 days which is held over the heads of those sentenced to treatment programs.

John Connor told the committee HB 839 is related to a Senate bill on voyeurism which was killed in the House. He said it is afoul of jurisdiction statutes of justice courts, which "sort of negates the intent".

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

Senator Halligan made a motion that HB 839 be TABLED. The motion carried with all members voting aye except Senators Towe, Harp and Brown who voted no.

EXECUTIVE ACTION ON HOUSE BILL 173

Motion:

Discussion:

Senator Mazurek said the bill makes it clear that once a charge has been made in the investigation of a justice, it is opened up to the public.

Steve Brown, Helena attorney, advised the Committee that the 1972 Constitution provides for the Judicial Standards Commission to

operate in confidentiality. He explained that he proposed an amendment in 1981 which passed by 60 percent, to provide that the Legislature can make exception to confidential investigations of justices. Mr. Brown stated he disagreed with and was never clear on what Judge Sullivan was trying to get at.

Steve Brown further advised the Committee that the other provisions deal with the reports of the Commission, making it clear that if a case is re-opened, information relative to the investigation is only made public if the justice being investigated waives his or her right to privacy.

Amendments, Discussion, and Votes:

There were none.

Recommendation and Vote:

Senator Towe made a motion that HB 173 BE CONCURRED IN. The motion carried unanimously. Senator Stimatz will carry HB 173.

EXECUTIVE ACTION ON HOUSE BILL 405

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Grosfield provided amendments proposed by the Montana State Council of Carpenters (Exhibit #2).

Senator Mazurek said he was concerned about this being done in lien statutes, but it doesn't have to do with liens and uses them as a vehicle to accomplish a business purpose.

Senator Svrcek stated that during the hearing he asked Mr. Butler how he would describe BCBS, and that Mr. Butler said, "everything but insurance". Senator Svrcek held up a BCBS ad insert for insurance which was in a newspaper. He also pointed out that BCBS is listed under Insurance in the Yellow Pages of the phone director.

Senator Mazurek said he didn't believe BCBS has ever maintained that, as it has always been a health service corporation, as opposed to an insurance company. He stated there has always been this distinction.

Senator Towe explained that in 1971 the "Blues" proposed legislation to completely exclude them from the insurance code. He said the Legislature killed a bill that session, and told BCBS to

SENATE STANDING COMMITTEE REPORT

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March 23, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 173 (third reading copy -- blue), respectfully report that House Bill No. 173 be concurred in.

Signed: _____
Richard Piosoneault, Chairman

PR 2-23
And. Coord.

PR 2-23
Sec. of Senate

9:20